

ESTTA Tracking number: **ESTTA332359**

Filing date: **02/16/2010**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

## Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

### Opposer Information

Name	The Susan G. Komen Breast Cancer Foundation, Inc.
Granted to Date of previous extension	02/14/2010
Address	5005 LBJ Freeway, Suite 250 DALLAS, TX 75244 UNITED STATES
Attorney information	John M. Cone Hitchcock Evert LLP P.O. Box 131709 DALLAS, TX 75313-1709 UNITED STATES jcone@hitchcockevert.com, docket@hitchcockevert.com Phone:214 880 7002

### Applicant Information

Application No	77635925	Publication date	08/18/2009
Opposition Filing Date	02/16/2010	Opposition Period Ends	02/14/2010
Applicant	Juggling For A Cure 2309 Vera Avenue Cincinnati, OH 45237 UNITED STATES		

### Goods/Services Affected by Opposition

Class 035. First Use: 2008/12/10 First Use In Commerce: 2008/12/10  
All goods and services in the class are opposed, namely: Advertising services, public relations and marketing services, namely, promoting and marketing the goods and services of others through all public communication means

### Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)

### Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	1593469	Application Date	11/25/1988
Registration Date	04/24/1990	Foreign Priority Date	NONE
Word Mark	RACE FOR THE CURE		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 041. First use: First Use: 1983/09/01 First Use In Commerce: 1986/04/01 ORGANIZING AND CONDUCTING FOOT RACES TO RAISE MONEY FOR BREAST CANCER RESEARCH AND LOCAL COMMUNITY BREAST HEALTH AWARENESS PROGRAMS

U.S. Registration No.	2082936	Application Date	09/05/1995
Registration Date	07/29/1997	Foreign Priority Date	NONE
Word Mark	SWING FOR THE CURE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 036. First use: First Use: 1992/07/00 First Use In Commerce: 1992/07/00 charitable fund raising for breast cancer research, education, and treatment by means of organizing and conducting golfing events		

U.S. Registration No.	2265471	Application Date	06/18/1997
Registration Date	07/27/1999	Foreign Priority Date	NONE
Word Mark	WORKOUT FOR THE CURE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 036. First use: First Use: 1996/11/00 First Use In Commerce: 1996/11/00 charitable fundraising services for breast cancer research and local community breast health awareness programs		

U.S. Registration No.	2362027	Application Date	06/08/1999
Registration Date	06/27/2000	Foreign Priority Date	NONE
Word Mark	FOR THE CURE		
Design Mark	<p style="text-align: center;"><b>FOR THE CURE</b></p>		
Description of Mark	NONE		
Goods/Services	Class 016. First use: First Use: 1999/05/00 First Use In Commerce: 1999/05/00 NEWSLETTERS ON THE SUBJECT OF BREAST CANCER RESEARCH AND ISSUES RELATED THERETO		

U.S. Registration No.	2456100	Application Date	04/30/1999
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Registration Date	05/29/2001	Foreign Priority Date	NONE
Word Mark	BOWL FOR THE CURE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 036. First use: First Use: 2000/07/00 First Use In Commerce: 2000/07/00 CHARITABLE FUNDRAISING SERVICES, NAMELY, RAISING MONEY FOR BREAST CANCER RESEARCH AND RAISING MONEY FOR LOCAL COMMUNITY BREAST HEALTH AWARENESS PROGRAMS		

U.S. Registration No.	2548209	Application Date	03/03/2000
Registration Date	03/12/2002	Foreign Priority Date	NONE
Word Mark	DANCE FOR THE CURE		
Design Mark	<b>DANCE FOR THE CURE</b>		
Description of Mark	NONE		
Goods/Services	Class 036. First use: First Use: 2001/08/18 First Use In Commerce: 2001/08/18 CHARITABLE FUNDRAISING SERVICES, NAMELY, RAISING MONEY FOR BREAST CANCER RESEARCH AND RAISING MONEY FOR LOCAL COMMUNITY BREAST HEALTH AWARENESS PROGRAMS		

U.S. Registration No.	2618567	Application Date	08/12/1999
Registration Date	09/10/2002	Foreign Priority Date	NONE
Word Mark	KICKS FOR THE CURE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 036. First use: First Use: 2001/09/00 First Use In Commerce: 2001/09/00 CHARITABLE FUNDRAISING SERVICES, NAMELY, RAISING MONEY FOR BREAST CANCER RESEARCH AND RAISING MONEY FOR LOCAL COMMUNITY BREAST HEALTH AWARENESS PROGRAMS		

U.S. Registration No.	2646030	Application Date	04/23/1998
Registration Date	11/05/2002	Foreign Priority Date	NONE
Word Mark	VOLLEY FOR THE CURE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 036. First use: First Use: 2001/11/00 First Use In Commerce: 2001/11/00		

	CHARITABLE FUNDRAISING SERVICES FOR BREAST CANCER RESEARCH AND LOCAL COMMUNITY BREAST HEALTH AWARENESS PROGRAMS		
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U.S. Registration No.	2659775	Application Date	01/13/1998
Registration Date	12/10/2002	Foreign Priority Date	NONE
Word Mark	HOOPS FOR THE CURE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 036. First use: First Use: 2000/12/00 First Use In Commerce: 2000/12/00 CHARITABLE FUNDRAISING SERVICES FOR BREAST CANCER RESEARCH AND LOCAL COMMUNITY BREAST HEALTH AWARENESS PROGRAMS		

U.S. Registration No.	2734578	Application Date	09/03/2002
Registration Date	07/08/2003	Foreign Priority Date	NONE
Word Mark	LAUGH FOR THE CURE		
Design Mark	<b>LAUGH FOR THE CURE</b>		
Description of Mark	NONE		
Goods/Services	Class 036. First use: First Use: 2002/07/10 First Use In Commerce: 2002/07/10 CHARITABLE FUNDRAISING SERVICES, NAMELY, RAISING MONEY FOR BREAST CANCER RESEARCH AND RAISING MONEY FOR LOCAL COMMUNITY BREAST HEALTH AWARENESS PROGRAMS		

U.S. Registration No.	3194062	Application Date	03/20/2006
Registration Date	01/02/2007	Foreign Priority Date	NONE
Word Mark	BICYCLE FOR THE CURE		
Design Mark	<b>BICYCLE FOR THE CURE</b>		
Description of	NONE		

Mark	
Goods/Services	Class 036. First use: First Use: 2001/07/01 First Use In Commerce: 2001/07/01 Charitable fundraising services, namely, raising money for breast cancer research and raising money for local community breast health awareness programs

U.S. Registration No.	3236109	Application Date	10/03/2005
Registration Date	05/01/2007	Foreign Priority Date	NONE
Word Mark	PITCH FOR THE CURE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 036. First use: First Use: 2005/10/00 First Use In Commerce: 2005/10/00 Charitable fundraising through organizing and conducting softball and baseball tournaments, activities and events to raise money for breast cancer research		

U.S. Registration No.	3619143	Application Date	10/03/2008
Registration Date	05/12/2009	Foreign Priority Date	NONE
Word Mark	FIESTA FOR THE CURE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 036. First use: First Use: 2007/09/01 First Use In Commerce: 2007/09/01 Charitable fundraising services, namely, raising money for breast cancer research and raising money for local community breast health awareness programs		

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## Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/s/ John M. Cone
Name	John M. Cone
Date	02/16/2010



2. Opposer is the owner of the famous trademark RACE FOR THE CURE used continuously since as long ago as 1983 for charitable fundraising services, namely, raising money for breast cancer research and raising money for breast health awareness and promoting breast health awareness programs

3. Opposer owns numerous registrations of marks consisting of or including the words "FOR THE CURE" in connection with charitable fundraising services and has been using these trademarks for many years. In particular, Opposer's is the owner of the following registrations of marks on the Principal Register:

Reg. No. 1,593,469 RACE FOR THE CURE  
Reg. No. 2,082,936 SWING FOR THE CURE  
Reg. No. 2,265,471 WORKOUT FOR THE CURE  
Reg. No. 2,362,027 FOR THE CURE  
Reg. No. 2,456,100 BOWL FOR THE CURE  
Reg. No. 2,548,209 DANCE FOR THE CURE  
Reg. No. 2,618,567 KICKS FOR THE CURE  
Reg. No. 2,646,030 VOLLEY FOR THE CURE  
Reg. No. 2,659,775 HOOPS FOR THE CURE  
Reg. No. 2,734,578 LAUGH FOR THE CURE  
Reg. No. 3,194,062 BICYCLE FOR THE CURE  
Reg. No. 3,236,109 PITCH FOR THE CURE  
Reg. No. 3,619,143 FIESTA FOR THE CURE

4. As a result of offering its services under the above marks, Opposer has built up substantial goodwill in the marks and the marks have come to signify services originating with, or associated or approved by, Opposer.

5. The Mark Applied For so resembles Opposer's marks identified in Paragraph 3 and that are the subject of the registrations listed in Paragraph 3, that use of the Mark Applied For for the services identified in application S.N. 77/635,925 would be likely to cause confusion, or to cause mistake, or to deceive. 15 U.S.C. § 1052(d).



6. Additionally, Opposer's trademarks, including RACE FOR THE CURE, are famous marks that were famous prior to Applicant's filing date or first use date and Applicant's mark is likely to dilute Opposer's marks.

7. For the reasons set out above, Opposer is being damaged because application S.N. 77/635,925, if granted, would create statutory rights in violation of Opposer's established rights.

WHEREFORE, Opposer prays that this Opposition be granted and that Applicant be denied registration for the mark JUGGLING FOR A CURE.

Dated: February 16, 2010

Respectfully submitted,

/s/ John M. Cone

John M. Cone  
Hitchcock Evert LLP  
P.O. Box 131709  
Dallas, Texas 75313-1709  
(214) 880-7002 Telephone  
(214) 953-1121 Facsimile  
jccone@hitchcockevert.com

ATTORNEY FOR OPPOSER THE  
SUSAN G. KOMEN BREAST CANCER  
FOUNDATION, INC. d/b/a SUSAN G.  
KOMEN FOR THE CURE

### **CERTIFICATE OF SERVICE**

I hereby certify that on this 16th day of February 2010, a true and correct copy of the foregoing document was served via U.S. First Class Mail, postage prepaid on Applicant Juggling For A Cure, 2309 Vera Avenue, Cincinnati, Ohio 45237.

/s/John M. Cone

John M. Cone